

**Comments of Pacific Gas and Electric Company on the California Energy Commission Public Benefits Program “Staff Discussion Paper Regarding Administrative Structure Issues Prepared for the A.B. 1105 Staff Workshop Scheduled on October 1, 1999”**

Pacific Gas and Electric Company (PG&E) is pleased to have the opportunity to comment on the State Energy Resources Conservation and Development Commission (CEC), Staff Discussion paper regarding the administrative structure to administer energy efficiency programs after 2001.

The CEC has been charged by the State Legislature with a challenging and complex task in AB 1105: “This bill would require the commission to conduct a public process to prepare a transition plan report and an operational plan report concerning the transfer of energy efficiency programs from the California Public Utilities Commission (CPUC) to CEC, and to submit these reports to the Legislature by January 1, 2000.” In developing these plans the CEC has been asked to consider the following:

For the transition plan:

- Oversight and responsibility issues
- Implementation and sequencing issues related to transfer of responsibilities
- Synergy between this program and other public goods charge programs
- Programs that apply market transformation principles and result in sustainable, cost-beneficial improvements in California energy markets
- Resources necessary to implement the transition plan

For the administrative structure recommended in the operational plan:

- Application of market transformation principles to achieve cost-effective energy efficiency through sustainable, cost-beneficial improvements in California energy markets
- Assessment of markets for untapped opportunities for cost-effective savings
- Sustainable improvements in the informational environment that result in innovative energy efficiency products and services from private businesses and increase the ability of customers to make more intelligent energy choices
- Appropriate roles for private and public entities to provide energy efficiency services including, but not limited to, designating a public benefit, nonprofit as program administrator
- Eligibility for program funds to support ability of electricity consumers to shift electricity usage based on price

- Appropriate funding levels and program oversight
- Minimizing the role of state agencies in providing administrative and implementation services
- Programs that reduce consumer energy bills while stimulating growth of a competitive energy services industry.

These embody many of the principles which govern the programs that the utilities have been providing to California consumers under the governance of the CPUC. These issues will need to be addressed in the CEC's transition and operational reports and therefore they are the backdrop for PG&E's comments on and recommendations for the CEC's present discussion paper.

### **Administration Functions**

The five functions outlined in the draft report cover the range of activities required for the overall management of energy efficiency programs. Governance and Independent Review can be easily separated as distinct functions, while Program Management, Implementation and Evaluation overlap significantly. Artificially separating these three functions will create inefficiencies and degrade the quality of the overall product. This is not to say that different parties can not perform these tasks, but that a successful Program Manager must stay involved in both implementation and evaluation.

Governance should include reviewing but not developing a strategic plan. That is a function better suited to the technically knowledgeable Program Manager. Governance should be focused on setting broad policy goals, setting performance incentives and approving plans and budgets. To the extent that options require greater numbers of entities for the Governance body to oversee, the Governance body will become a *de facto* Program Manager; having to integrate the activities among all the entities. Portfolio management in this sense simply pushes Program Management up to the Governance body.

### **Additional Pros and Cons for CEC's Recommended Administrative Structures**

PG&E has considered the three administrative structure alternatives proposed by the CEC. The options envision a combination of CEC (or another public entity) and a variety of market players including private utility and non-utility corporations providing the five main functions CEC has identified for the new administrative structure. These functions are governance, program management, implementation/delivery, program evaluation, and independent review. Option A primarily assigns the majority of functions to CEC. The only exceptions, by necessity, are implementation and independent review. Option B assigns the governance function to an unidentified public entity (excluding CEC) and assigns other functions to mostly privates, either utility or

non-utility or sometimes both. Option C assigns the governance function to CEC and assigns, like Option B, other functions to mostly privates, either utility or non-utility or sometimes both. Unlike Option B, however, Option C envisions more than one entity sharing the same function. Option C also has a role for CEC in the program evaluation function.

Several additional Pros and Cons can be added to each option in line with the principles of AB 1105. In addition, PG&E has included comments that enhance or amend the Pros and Cons included in the discussion paper. One comment that is applicable to all the options is that utilities should not be struck *a priori* from the list of entities eligible to perform evaluation. Whatever perceived conflicts might exist would likely exist for private and even public agencies if they had roles in any of the other functions. These will need to be addressed, but there is no need to single out utilities at this stage.

### **Option A**

#### **Pros:**

1. Provides Governance and Oversight consistent with Sections 28 and 44(a) of AB 1105, i.e., transfer of energy efficiency programs from CPUC to CEC.

#### **Cons:**

1. Assigning the program administrative (management) role to CEC is inconsistent with Section 44 (b) 7 which requires minimum administrative role for state agencies.
2. Assigning the program administration and governance roles to CEC reduces some of the value of an arms length oversight function.
3. Envisions program design/administration/management, program implementation and program evaluation functions by different entities. This is likely to cause inefficiencies and much higher transaction costs. It may also cause conflicts as boundaries between administrative and implementation activities cannot always be clearly defined. Additional resources would be needed for duplicative tasks and additional coordination. In addition, it further removes program design and management from the critical knowledge embodied in the work of evaluation. This is knowledge that does not transfer well in report format or even informally between organizations. The most successful program managers find a way to integrate these functions.

### **Option B**

#### **Pros:**

1. Recognizes that utilities, with their years of experience in energy efficiency programs, are major players in program management and implementation activities.

Cons:

1. Provides Governance and Oversight to a new public entity other than CEC. This is inconsistent with Sections 28 and 44(a) of AB 1105, i.e., transfer of energy efficiency programs from CPUC to CEC only.
2. Envisions program design/administration/management, program implementation and program evaluation functions by different entities. As described in Option A above, this is likely to cause inefficiencies due to higher transaction costs. It may also cause conflicts as boundaries between administrative and implementation activities cannot always be clearly defined. Excludes utility role in program evaluation. If a utility is involved in program design, it should also have a role in program evaluation in order to capture the value of real time evaluation for implementation and redesign.
3. Does not provide specific independent oversight of the program evaluation function, e.g., currently ORA provides this function for utility-managed program evaluation.

**Option C**

Pros:

1. Provides Governance and Oversight consistent with Sections 28 and 44(a) of AB 1105, i.e., transfer of oversight of energy efficiency programs from CPUC to CEC.
2. Recognizes utilities, with their years of experience in energy efficiency programs, are major players in program management, implementation and evaluation activities.

Cons:

1. Envisions program design/administration/management, program implementation and program evaluation functions by different entities. As with Options A and B, this is likely to cause inefficiencies and disconnects. It may also cause conflicts as boundaries between administrative and implementation activities cannot always be clearly defined.

This option can create additional inefficiencies, confusion and conflict as it assigns sharing of the same function, e.g., program management, by more than one entity. This would also require increased program management activities at the Governance level as the work of many entities would need to be managed and integrated.

## Additional Options for Future Administrative Structure

### PG&E Option D

PG&E recommends consideration of a fourth Administrative Structure Option “D,” illustrated in Table 1, below. Option D provides governance and oversight consistent with Sections 28 and 44(a) of AB 1105 regarding the transfer of energy efficiency programs from the CPUC to CEC, but retains a utility role in program management, implementation and evaluation functions.

Table 1  
Administrative Structure Alternatives

| Functions               | Principles  | Administrative Structure Options                     |   |   |   |
|-------------------------|---|--|---|---|---|
|                         |   | A  | B   | C   | D   |
| Governance              | - Legal<br>- Accountable<br>- Quick start   | CEC  | New Public Entity   | CEC   | CEC   |
| Program Management      | - Effective<br>- Efficient procurement<br>- No breaks in service<br>- Uses existing expertise | CEC  | Private<br><i>or</i><br>Utility                           | Combination (i.e., a mix of Public, Utility and Private Entities) | Utility   |
| Implementation/Delivery | - Experienced<br>- Effective<br>- Efficient   | Private  | Private<br><i>and</i><br>Utility                          | Private<br><i>and</i><br>Utility                                  | Utility<br><i>and</i><br>Private                        |
| Program Evaluation      | - Accountable<br>- Provides feedback<br>- Checks & balances                                   | CEC  | Private   | CEC<br><i>and</i><br>Private                                      | Utility, Private<br><i>and</i><br>CEC                   |
| Independent Review      | - Objective evaluations<br>- Credible to Legislature<br>- No conflict of interest             | Private Panel (policy)<br><i>and</i><br>DOF (fiscal) | Private Panel (for <i>both</i> policy/ fiscal evaluation) | Private Panel (policy)<br><i>and</i><br>DOF (fiscal)              | Private Panel (policy)<br><i>and/or</i><br>DOF (fiscal) |

Although AB 1105 recommends but does not mandate the transfer of administrative roles from the utilities to a new administrative structure, PG&E believes this transfer may prove more difficult and costly than anticipated. The Option D structure takes full advantage of in-place utility expertise in managing, implementing and evaluating energy efficiency programs. Maintaining the utility in these program administrative roles assures efficiency, continuity and open feedback channels.

Private entities are currently provide the majority of in program implementation and delivery under this option. For example the current Standard Performance Contracting and Third Party Programs promote and foster entry of private entities providing cost-effective products and services, as addressed in Sections 44(b) 3A and 8 of A.B. 1105. In addition, many components of the present implementation strategies have been outsourced to other market participants. Under the Governance of the CEC the role of private entities would continue to evolve.

Under this option utilities would continue to have a role in evaluation activities. The Joint Recommendation of PG&E, SCE, SoCalGas, SDG&E, ORA and the CEC for Market Assessment and Evaluation Activities in the 1999 Annual Earning Assessment Proceeding defines evaluation obligations and reporting conventions. The Joint Recommendation provides a forum and process which will reduce potential conflicts of interest, provide oversight consistency, and include input from multiple parties, including evaluators, regulators, and the public. Evaluations are currently carried out by private entities and opportunities exist to coordinate additional broad market assessments with the CEC in their role as the Governance body.

To address any concerns about potential conflict of interest with subsidiaries, affiliate rules have been established for the utilities to ensure that any conflict did not affect the program design or implementation. To date no such conflict has been claimed for PG&E.

### **Status Quo Option**

Continuation of current oversight/administrative/implementation structure under the current CPUC/Utility model is an option for the future. This option has a long and proven record of successfully delivering energy efficiency programs to the marketplace and all California energy users. This option is useful as a bench mark for comparing alternative options for the future. As the various alternatives are evaluated, an assessment should be made of the cost of overcoming the hurdles in creating the new structure. This cost may prove not to be justified if the proposed structure is only marginally better than the current structure. This could be especially true if the commitment to such a new structure is not sufficiently long-term, since continuity in programs will require an extensive transition period.

PG&E looks forward to continuing to work with the CEC in the development of the transition and operational reports.